



Legal Update

August 7, 2012

Amendments to Chapters 10 and 90 – The Victims of Drunk Driving Trust Fund and Motor Vehicle Laws

In the FY 13 budget several amendments were made to the motor vehicle laws. Below is a summary of those amendments:

Chapter 10, § 66: The **Victims of Drunk Driving Trust Fund** has been amended to allow for the funds to provide counseling and support services to not only “victims” but also “witnesses” and “family members of crashes” caused by persons driving under the influence of drugs and alcohol.

Chapter 90, § 2: The **registration of motor vehicles and trailers** section has been amended by striking the first and second paragraph and replacing it with the following language:

Applications for the registration of motor vehicles and trailers may be made by the owner thereof. If the owner is a corporation, sole proprietorship or business entity, the application shall contain, in addition to such other particulars as may be required by the registrar, the name of the corporation, sole proprietorship or business entity and the full address, including the street, city or town, state and zip code. If the owner is a sole proprietorship, the application shall contain a social security number and an employer identification number or federal tax identification number from the Internal Revenue Service, if any such number has been issued. If the applicant is a natural person, the application shall contain, in addition to such other particulars as may be required by the registrar, the name of the applicant, full residential address, date of birth and license number or identification card number issued by the registrar, if such license or card has been issued. The application of a natural person shall also contain the apartment or unit number if the applicant's address is in an apartment house, family hotel, condominium or a residential flat or is in a combined business and residential property. Except as otherwise provided in this chapter, no registration shall be issued to a natural person for a motor vehicle or trailer unless such person holds a license, identification card issued under section 8E, social security number issued by Social Security Administration or other proof of legal residence; provided, however, that the registrar shall provide by regulation for exemptions for out-of-state students, military personnel, senior citizens and disabled persons; provided, further, that the registrar may provide by regulation additional exemptions which shall be consistent with this section. The application shall also contain a brief description of the motor vehicle or trailer to be registered, including the name of the maker, any number or numbers as may be required by the registrar to properly identify the vehicle, the character of the motor power and the type of transmission and a statement signed by the applicant under the penalties of perjury that no excise liabilities on the motor vehicle are outstanding and incurred by the applicant, a member of the applicant's immediate family who is a member of the applicant's household or any business partner of the applicant. The registration fee, as required under section 33, shall accompany the application. Applicants for registration shall also comply with chapter 90D.

The registrar or the registrar's duly authorized agents shall keep a record of motor vehicles and trailers that satisfy application requirements, and shall assign to each motor vehicle and trailer a distinguishing mark or number to be known as the register number for that vehicle or trailer, and shall thereupon issue to the applicant a certificate of registration. If the owner is a corporation, sole proprietorship or business entity, the certificate shall contain the name and address of the corporation, sole proprietorship or business entity and the register number or mark and shall be in such form and contain such further information as the registrar may determine. If the owner is a natural person, the certificate shall contain the name, place of residence and address of the applicant and the register number or mark and shall be in such form and contain such further information as the registrar may determine."

Chapter 90, § 5: The following language has been added to the **general registrations** section:

(d½) A corporation engaged in the business of building or repairing boats may attach a single license plate registered and issued by the registry of motor vehicles to any trailer owned by such corporation for use to transport boats on public ways.

Chapter 90, § 12: The **employing unlicensed motor vehicle operator** section has been amended by striking out subsections (a) and (b) and replacing it with the following language:

(a) Whoever knowingly employs for hire as a motor vehicle operator any person not licensed in accordance with this chapter shall be punished for a first offense by a fine of not more than \$1,000 and, for a second or subsequent offense, by a fine of not less than \$1,000 nor more than \$1,500 or imprisonment in the house of correction for not more than 1 year, or both such fine and imprisonment.

(b) Whoever, being the owner or person in control of a motor vehicle, knowingly permits such motor vehicle to be operated by a person who is unlicensed or whose license has been suspended or revoked shall be punished for a first offense by a fine of not more than \$1,000 or by imprisonment in a house of correction for not more than 1 year or, for a second or subsequent offense by a fine of not less than \$1,000 and not more than \$1,500 or imprisonment in a house of correction for not more than 2 1/2 years, or both such fine and imprisonment.

Chapter 90, § 20: The fines for the crime of **Operating a Motor Vehicle Without a License** have been increased from not less than \$100 nor more than \$1000 to not more than \$500 for a first offense, not less than \$500 nor more than \$1000 for a second offense, and not less than \$1000 nor more than \$2,000 for any subsequent offense.

Chapter 90, § 20: The first \$37.50 of the \$50 surcharge on a fine assessed against an individual convicted or found responsible for speeding in violation of Chapter 90, §§ 17 and 18, shall be deposited into the **Head Injury Treatment Services Trust Fund**. The amount deposited to the Fund has been increased from \$30 to \$37.50.

Chapter 90, § 24: The first \$187.50 of the \$250 assessment against a person who is convicted of, is placed on probation for; or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor or drugs shall be deposited into the **Head Injury Treatment Services Trust Fund**. The amount deposited to the Fund has been increased from \$150 to \$187.50.

Chapter 90, § 24 (1) (d): The words “or admits to a finding of sufficient facts” has been included in the **prior convictions** section. This language does not change anything but rather is consistent with current case law. *Commonwealth v. Murphy*, 389 Mass. 316 (1983).

“For the purposes of subdivision (1) of this section, a person shall be deemed to have been convicted if he pleaded guilty or nolo contendere or admits to a finding of sufficient facts or was found or adjudged guilty by a court of competent jurisdiction, whether or not he was placed on probation without sentence or under a suspended sentence or the case was placed on file, and a license may be revoked under paragraph (b) hereof notwithstanding the pendency of a prosecution upon appeal or otherwise after such a conviction. Where there has been more than one conviction in the same prosecution, the date of the first conviction shall be deemed to be the date of conviction under paragraph (c) hereof.”

Chapter 90, § 24 (1)(f)(1): On May 17, 2012 in *Souza v. Registrar of Motor Vehicles & another*, 426 Mass. 227 (2012), the Supreme Judicial Court ruled that in G.L. c. 90, § 24 (1) (f) (1), the word, “convicted” references only dispositions of criminal charges that include a determination of guilt and not an admission to sufficient facts. In an effort to fix this “loophole” the law was amended to include the words “or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction for a like offense.” This section deals specifically with administrative license suspensions for a breath test refusal and does not affect the disposition on a criminal case.

“...any person who is under the age of 21 years or who has been previously convicted of a violation under this section, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L or subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B, or section 131/2 of chapter 265 or a like violation by a court of any other jurisdiction or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction for a like offense.”

“...provided, further, that any person previously convicted of, or assigned to a program for, 2 such violations shall have his license or right to operate suspended forthwith for a period of 5 years for such refusal; and provided, further, that a person previously convicted of, or assigned to a program for, 3 or more such violations shall have his license or right to operate suspended forthwith for life based upon such refusal.”

Chapter 90, § 24B: The following language has been included after the first paragraph of Chapter 90, § 24B, **stealing, forging or other falsification of learner’s permit...**

“Whoever falsely makes, steals, forges or counterfeits a learner’s permit, a license to operate motor vehicles or an identification card issued under section 8E with the intent to distribute such learner’s permit, license to operate motor vehicles or identification card shall be punished as follows: (i) for acts involving any combination of 5 or fewer learner’s permits, licenses to operate or identification cards, by a fine of not more than \$500 or by imprisonment in the house of correction for not more than 1 year, or both such fine and imprisonment; (ii) for acts involving 6 to 10 such documents, by a fine of not more than \$1,000 or by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2 1/2 years, or both such fine and imprisonment; (iii) for acts involving more than 10 such documents, by a fine of not more than \$10,000 or by imprisonment in the state prison for not more than 10 years, or both such fine and imprisonment.”

